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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/549,453

09/14/2005

Junichi Ueno

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EXAMINER

ROSE, ROBERT A

ART UNIT

PAPER NUMBER

3727

MAIL DATE

DELIVERY MODE

03/18/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JUNICHI UENO

Application No. 10/549,453
Technology Center 3700

Mailed: March 18, 2009

Before PAMELA S. BENNETT, *Review Team Paralegal*.

BENNETT, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on March 12, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

EXAMINER'S ANSWER, MISSING CERTIFIED TRANSLATION

The Examiner relied on the foreign references to Susumu et al. (JP 10-180623) and Fuminari et al. (JP 10-202511) in rejecting the claims. Full certified English translations of the above-noted foreign references are not of record in the Image File Wrapper (IFW).¹

When an Examiner relies on a document “in a language other than English, a translation *must* be obtained so that the record is clear as to the precise facts the examiner is relying upon in support of the rejection” (emphasis added). See § 1207.02 of the *Manual of Patent Examining Procedure* (MPEP) (Eighth Edition, Rev. 6, September 2007). Pursuant to a memorandum dated April 29, 2002 by Stephen G. Kunin, Deputy Commissioner for Patent Examination Policy:

Effective immediately, no appeal should be forwarded to the Board of Patent Appeals and Interferences for decision where: (1) a rejection is supported in whole or part by an abstract without reference to the underlying document, . . . ; or (2) a rejection is supported in whole or part by a prior art document not in the English language, unless accompanied by a translation of the prior art document into English.

The memorandum also states “[i]f the document is in a language other than English and the examiner seeks to rely on that document, a translation *must* be obtained so that the record is clear as to the precise facts the examiner is relying upon in support of the rejection” (emphasis added).

¹ It is noted that Japanese Abstracts and computer-generated translations were included with the Information Disclosure Statement filed September 14, 2005. However, the first page of the translations state that the “document has been translated by computer. So the translation may not reflect the original precisely.”

CONCLUSION

Accordingly, it is **ORDERED** that the application is returned to the Examiner:

- 1) to obtain full certified English language translations of the above-noted foreign references;
- 2) to complete the IFW by having the translations obtained scanned into the IFW;
- 3) to provide copies of the translations obtained to Appellant; and
- 4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

PSB

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